



DEPARTMENT OF ENVIRONMENTAL PROTECTION
Monthly Enforcement Report
for actions during August 2012
DISTRIBUTED: September 20, 2012

This report has been prepared to satisfy a statutory obligation the Maine Department of Environmental Protection has to inform the public of certain enforcement resolutions. Please contact Peter Carney at (207) 287-4305 or peter.j.carney@maine.gov for additional information regarding the activities listed in this report.

The following cases were resolved to achieve compliance with the law; remediate environmental damage; restore natural resources to appropriate conditions; and impose penalties to deter similar actions in the future.

Administrative Consent Agreements Approved by the Commissioner and Office of the Attorney General (party followed by location):

Air:

South Portland Terminal LLC, South Portland, Maine. South Portland Terminal LLC violated a provision of its Department-issued air emission license by exceeding the facility's license limit for VOC emissions from the facility's vapor control unit. To resolve the violation, South Portland Terminal LLC paid \$34,425 as a civil monetary penalty.

Asbestos:

Atlantic Construction Services, Inc., Lewiston, Maine. Atlantic Construction Services, Inc. ("Atlantic") violated the Department's *Asbestos Management Regulations* by: not equipping a decontamination facility with an operational shower room; allowing personnel to wear clothing under protective suits and footwear that was not designated and marked for asbestos use only; allowing personnel to proceed to and enter into a regulated area without first removing all street clothes and footwear in a clean room; failing to require personnel to place a clean protective suit and booties over their asbestos clothing before proceeding to a regulated area; failing to provide personnel with a clean, unused suit to carry to a regulated area for use upon egress from the regulated area; allowing personnel to exit the regulated area without putting on a clean unused suit over their contaminated suit before proceeding to either another work area or the decontamination facility equipment room; and failing to require personnel to remove respirators during showering as part of the decontamination process. To resolve the violations, Atlantic paid \$4,500 as a civil monetary penalty.

Land:

George A. Giovanis, Old Orchard Beach, Maine. George A. Giovanis ("Giovanis") violated Maine's *Natural Resources Protection Act* ("NRPA") by constructing or causing to be constructed a permanent structure, namely a deck and handicap ramp, in a frontal dune within the V-Zone, without first obtaining a permit from the Department. To resolve the violation, Giovanis agreed to submit to the Department a removal and restoration plan to remove the deck and handicap ramp and restore any affected areas, or, in the alternative, submit to the department an after-the-fact application for a NRPA permit for the deck and handicap ramp, and, if the permit application is approved, immediately comply with all terms and conditions of the permit or, if the permit application is denied in whole or in part, within thirty days of the Department's permit denial or partial denial submit a removal and restoration plan to the Department to remove the non-permitted portion or portions of the deck and/or handicap ramp and restore any affected areas. The agreement provides that, if Giovanis pursues a permit and the permit application is denied in whole or in part, the requirement of submitting a removal and restoration plan is stayed until Giovanis has exhausted all appeal rights with respect to the Department's licensing decision. In addition, Giovanis paid \$1,200 as a civil monetary penalty.



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Superior Court Enforcement Resolutions (party followed by location):

Land:

State of Maine and Maine Department of Environmental Protection v. McGee Properties, LLC and Steven A. McGee, Pittston, Gardiner, and West Gardiner, Maine. McGee Properties, LLC ("McGee Properties") violated Maine's *Erosion and Sedimentation Control* law ("ESCL") by crossing a protected natural resource, specifically an unnamed stream, without installing reasonable erosion and sedimentation controls, and as a result discharging rock, sand, or dirt into the unnamed stream and Morton Brook in violation of the *Protection and Improvement of Waters* law at a site in Pittston. McGee Properties violated Maine's *Natural Resources Protection Act* ("NRPA") by conducting road improvement activities which resulted in filling 2,500 square feet of wetland, far in excess of that authorized under a Permit by Rule acquired for the project, at a site in Gardiner. McGee Properties violated the ESCL by exposing approximately 51,350 square feet of soil or other earthen material without taking adequate measures to prevent unreasonable erosion of soil or sediment beyond the project site or into a protected natural resource, the *Stormwater Management* law by constructing a project that includes one acre or more of disturbed area without prior approval of the Department, and the NRPA by disturbing soil adjacent to an unnamed stream which is a protected natural resource without first obtaining a permit from the Department and filling approximately 13,410 square feet of forested wetland without first obtaining a permit from the Department at a site on Pond Road in West Gardiner in the course of conducting road building activities. Steven A. McGee violated Maine's NRPA by dredging, displacing soil, sand and vegetation or filling, or causing the dredging, displacement of soil, sand and vegetation or the filling, of approximately 40,162 square feet of freshwater wetland without first obtaining a permit from the Department in the course of development activities at a site on Rabbit Ridge Road in West Gardiner known as Rabbit Ridge Acres. In a Consent Decree and Order entered into by the parties and approved by the court to resolve the violations, it was agreed that an after-the fact NRPA permit application would be submitted to the Department addressing wetland alterations associated with the Rabbit Ridge Acres subdivision and all terms and conditions of the permit will be complied with if the permit application is approved, or, if the after-the-fact permit application is not submitted by the date specified or is denied, returned or withdrawn, a restoration plan will be submitted to the Department to restore all unapproved wetland alterations associated with the Rabbit Ridge Acres subdivision to the extent practicable. In addition, McGee Properties and Steven A. McGee agreed to pay \$22,000 as a civil monetary penalty, pursuant to the terms of a payment plan.